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9 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 **In the Matter of the Statement of Issues Against:**

13 **Alyssia M. Peyton**
14 **209 B Hidden Valley Road**
Royal Oaks, CA 95076

15
16 **Respondent,**
17

CASE NO. 1D 2005 64346

STATEMENT OF ISSUES

18 The Complainant alleges:

19 **PARTIES**

20 1. Complainant, Steven K. Hartzell, is the Executive Officer of the Physical
21 Therapy Board of California (hereinafter the "Board") and brings this statement of issues solely
22 in his official capacity.

23 2. On or about July 12, 2005, respondent submitted an application for Physical
24 Therapy Assistant licensure to the Board. On or about December 2, 2005, the Board denied
25 respondent's application for licensure pursuant to sections 480 (a)(1), 480(a)(2), and 480(a)(3) of
26 the Business and Professions Code (hereinafter "Code"). On or about December 6, 2005,
27 respondent, through her counsel, requested an administrative hearing on the denial of her
28 application pursuant to section 485 of the Code. Respondent has never been issued a license to

1 practice as a physical therapy assistant by the Board.

2 **JURISDICTION**

3 3. This Statement of Issues is brought before the Board under the authority of the
4 following sections of the California Business and Professions Code (hereinafter "Code"):

5 A. Section 480 of the Code provides:

6 (a) A board may deny a license regulated by this code on the grounds that the applicant
7 has one of the following:

8 (1) Been convicted of a crime. A conviction within the meaning of this section
9 means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
10 Any action which a board is permitted to take following the establishment of a conviction
11 may be taken when the time for appeal has elapsed, or the judgment of conviction has
12 been affirmed on appeal, or when an order granting probation is made suspending the
13 imposition of sentence, irrespective of a subsequent order under the provisions of section
14 1203.4 of the Penal Code.

15 (2) Done any act involving dishonesty, fraud or deceit with the intent to
16 substantially benefit himself or another, or substantially injure another; or

17 (3) Done any act which if done by a licentiate of the business or profession in
18 question, would be grounds for suspension or revocation of license.

19 The board may deny a license pursuant to this subdivision only if the crime or act
20 is substantially related to the qualifications, functions or duties of the business or
21 profession for which application is made.

22 (b) Notwithstanding any other provision of this code, no person shall be denied a
23 license solely on the basis that he has been convicted of a felony if he has obtained a certificate of
24 rehabilitation under section 4852.01 and following of the Penal Code or that he has been
25 convicted of a misdemeanor if he has met all applicable requirements of the criteria of
26 rehabilitation developed by the board to evaluate the rehabilitation of a person when considering
27 the denial of a license under subdivision (a) of section 482.

28 (c) A board may deny a license regulated by this code on the ground that the

1 applicant knowingly made a false statement of facts required to be revealed in the application for
2 such license.

3 B. Section 2661 of the Code provides:

4 A plea or verdict of guilty or a conviction following a plea of nolo contendere
5 made to a charge of a felony or of any offense which substantially relates to the qualifications,
6 functions, or duties of a physical therapist is deemed to be a conviction within the meaning of
7 this article. The board may order the license suspended or revoked, or may decline to issue a
8 license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed
9 on appeal or when an order granting probation is made suspending the imposition of sentence,
10 irrespective of a subsequent order under section 1203.4 of the Penal Code allowing that person to
11 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
12 guilty, or dismissing the accusation, information, or indictment.

13 C. Section 482 of the Code provides:

14 Each board under the provisions of this code shall develop criteria to evaluate the
15 rehabilitation of a person when:

16 (a) Considering the denial of a license by the board under section 480; or

17 (b) Considering suspension or revocation of a license under section 490.

18 Each board shall take into account all competent evidence of rehabilitation
19 furnished by the applicant or licensee.

20 D. Title 16 of the California Code of Regulations, Section 1399.20 provides:

21 For the purposes of denial, suspension, or revocation of a licensee, pursuant to
22 Division 1.5 (commencing with section 475) of the Code, a crime or act shall be considered to be
23 substantially related to the qualifications, functions or duties of a person holding a license under
24 the Physical Therapy Practice Act if to a substantial degree it evidences present or potential
25 unfitness of a person to perform the functions authorized by the license in a manner consistent
26 with the public health, safety or welfare. Such crimes or acts shall include but not be limited to
27 the following:

28 (a) Violating or attempting to violate, directly or indirectly, or assisting in or

1 abetting the violation of, or conspiring to violate any provision or term of the Physical Therapy
2 Practice Act.

3 (b) Conviction of a crime involving fiscal dishonesty arising out of or in
4 connection with the practice of physical therapy.

5 (c) Violating or attempting to violate any provision or term of the Medical
6 Practice Act.

7 E. Title 16 of the California Code of Regulations, Section 1399.21 provides:

8 When considering the denial of a license, under section 480 of the Code or a
9 petition for reinstatement under section 11522 of the Government Code, the board, in evaluating
10 the rehabilitation of the applicant and his or her present eligibility for a license shall consider the
11 following criteria:

12 (a) The nature and severity of the act(s) under consideration as grounds for
13 denial.

14 (b) Evidence of any act(s) of crime(s) committed subsequent to the act(s) or
15 crime(s) under consideration as grounds for denial which also could be considered as grounds for
16 denial under section 480.

17 (c) The time that has elapsed since commission of the act(s) or crime(s) referred
18 to in subsections (a) or (b).

19 (d) The extent to which the applicant has complied with any terms of parole,
20 probation, restitution or any other sanctions lawfully imposed against the applicant.

21 (e) Evidence, if any, of rehabilitation submitted by the applicant.

22 F. Section 2660 of the Code provides, in pertinent part, that the Board may
23 suspend, revoke or impose probationary conditions upon any license for the following causes:

24 (d) Conviction of a crime which substantially relates to the qualifications,
25 functions, or duties of a physical therapist. The record of conviction or a certified copy thereof
26 shall be conclusive evidence of that conviction.

27 (l) The commission of any fraudulent, dishonest, or corrupt act which is
28 substantially related to the qualifications, functions, or duties of a physical therapist or physical

1 therapy assistant.

2 G. Section 2655.3 of the Code provides, in pertinent part, that a person
3 seeking approval as a physical therapist assistant shall make application to the board for that
4 approval and shall have the following qualifications, including, but not limited to, not having
5 committed acts or crimes constituting grounds for denial of approval under Section 480 of the
6 Code.

7 **FIRST CAUSE FOR DENIAL OF LICENSURE**

8 **(Conviction of a Crime and/or Any Act Involving**
9 **Dishonesty, Fraud, or Deceit, and/or Any Act that Would be Grounds**
10 **for Suspension or Revocation of a Licentiate)**

11 4. Respondent's application for licensure is subject to denial pursuant to
12 section 480(a)(1) of the Code, and/or section 480(a)(2) of the Code, and/or section 480(a)(3) of
13 the Code, and/or section 2661 of the Code, and/or section 2660(d) of the Code, and/or section
14 2660 (l) of the Code as follows.

15 5. On or about August 12, 2004, in a case entitled *People of the State of*
16 *California v. Alyssia Mary Peyton*, Case No. BB406821, respondent was convicted of an
17 infraction pursuant to sections 484/490.1 (petty theft) of the Penal Code. The circumstances
18 surrounding the conviction were that on or about March 2, 2004, respondent stole items from a
19 Whole Foods Store totaling \$69.47. Respondent was sentenced to ten hours of community
20 service and paid a fine.

21 6. Respondent's offense of stealing is substantially related to her
22 qualifications, duties, and functions as a physical therapy assistant in that it evidences a present
23 or potential unfitness of respondent to perform her functions as a physical therapy assistant
24 and/or constitutes an act of dishonesty with the intent to substantially benefit respondent, and/or
25 constitutes a dishonest or corrupt act that is substantially related to the qualifications, duties or
26 functions of a physical therapy assistant. Therefore, cause for denial exists.

27 **SECOND CAUSE FOR DENIAL OF LICENSURE**

28 **(Conviction of a Crime and/or Any Act Involving**
Dishonesty, Fraud, or Deceit, and/or Any Act that Would be Grounds
for Suspension or Revocation of a Licentiate)

1 7. Respondent's application for licensure is subject to denial pursuant to
2 section 480(a)(1)of the Code, and/or section 480(a)(2) of the Code, and/or section 480(a)(3) of
3 the Code, and/or section 2661 of the Code, and/or section 2660(d) of the Code, and/or section
4 2660(1) of the Code as follows.

5 8. On or about April 29, 1996, in an action entitled *State of Iowa vs. Alyssia*
6 *Mary Clark, Case No. SMAC 192160*, respondent was convicted of petty theft pursuant to section
7 714.2(5) of the Code of Iowa. The circumstances surrounding this conviction were that on April
8 20, 1996, respondent did take, steal, and carry away a product belonging to Target with a value of
9 \$18.25. Respondent was ordered to pay a fine.

10 9. Respondent's offense of stealing is substantially related to her
11 qualifications, duties, and functions as a physical therapy assistant in that it evidences a present
12 or potential unfitness of respondent to perform her functions as physical therapy assistant and/or
13 constitutes an act of dishonesty with the intent to substantially benefit respondent and/or
14 constitutes a dishonest or corrupt act that is substantially related to the qualifications, duties or
15 functions of a physical therapy assistant. Therefore, cause for denial exists.

16 **THIRD CAUSE FOR DENIAL OF LICENSURE**

17 **(Conviction of a Crime)**

18 10. Respondent's application for licensure is subject to denial pursuant to
19 section 480(a)(1)of the Code, and/or section 480(a)(2) of the Code, and/or section 480(a)(3) of
20 the Code, and/or section 2661 of the Code as follows.

21 11. On or about August 27, 1996, in a case entitled *State of Iowa vs. Alyssia*
22 *Clark, Case No., SMAC 194838*, respondent was convicted of domestic abuse/ assault in
23 violation of section 708.2a(2)(a) of the Code of Iowa. The circumstances surrounding this
24 conviction were that respondent assaulted her husband after a bike ride. Respondent was
25 sentenced to two days in jail and was required to register with Domestic Abuse Intervention
26 Counseling Services.

27 12. Respondent's conviction of domestic assault is substantially related to her
28 qualifications, duties, and functions as a physical therapist assistant in that it evidences a present

1 or potential unfitness of respondent to perform her functions as physical therapy assistant.

2 Therefore, cause for denial exists.

3 **PRAYER**

4 **WHEREFORE,** Complainant request that a hearing be held on the matters
5 herein alleged and that following the hearing an order be issued denying respondent's application
6 for licensure as a physical therapy assistant and that the Board take such other and further action
7 as deemed necessary.

8 Original Signed By: _____

9 STEVEN K. HARTZELL
10 Executive Officer
Physical Therapy Board of California

11 Peyton. SOI